REMARKS

Claims 1-21 are pending in the application, with Claims 1, 10 and 16 being independent Claims. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skelly (U.S. Patent No. 6,064,383) in view of Evans et al. (U.S. Pub. 2004002325).

Claim 16 is amended as set forth herein.

Skelly provides a user interface element that enables the user to assemble an appearance for a character that corresponds with an emotion and an emotional intensity. The user assembles the character from stored elements that relate to different parts of the character's anatomy and which are selected by specifying the emotion and the intensity of the emotion.

The present application recites the selection of pre-stored characters that express an emotion (emoticons) and allows the user to select the emoticon that most closely represents the feeling which the user wishes to convey.

Claim 1 reads, in part, "displaying the stored emoticons", and "selecting an emoticon". Claim 10 reads, in part, "displaying the stored emoticon groups", and "selecting an emoticon group". Amended Claim 16 reads in part, "displaying the plurality of stored emoticons" and "selecting at least one emoticon". Selection means choosing or picking from alternative choices. In the present application, the choices are presented under categories that represent specific categories of emoticons (e.g., love, smile, happiness). When the category of the emoticon is selected, then specific "stored" alternative emoticon choices within the category are presented and displayed. The user selects or chooses from among the alternative "emoticons" being stored.

With Skelly, on the other hand, the user selects an appearance for the character (Fig. 4 step 60) by building a character from constituent parts rather than "selecting an emoticon". As shown in Fig. 3 of Skelly and representative of the approach, the user selects an emotional level as indicated around the circle at the bottom of the figure. The user in making a selection is

choosing an emotion and an emotional intensity and assembling an appearance for a character that corresponds with the emotion and the emotional intensity. In other words, Skelly discloses selecting an emotion and an emotional intensity (an emotional state) but fails to disclose selecting an emoticon (a symbol indicating an emotion) indicating an emotional state as recited in Claims 1, 10 and 16.

Similar to the failing in "selecting" emoticons, Skelly further fails to provide for displaying the stored or selected emoticons as recited in Claims 1 and 16 or displaying the selected emoticon group of characters which is recited in Claim 10. Skelly does not teach storing or selecting emoticons, but instead discloses building an emotional appearance for a character.

The Examiner acknowledges that Skelly fails to disclose storing a plurality of "emoticons" in the mobile terminal and storing as part of a short message the "emoticon" selected by the user. The Examiner asserts that Evans teaches the storing of a plurality of emoticons, and transmitting an SMS message including the at least one emoticon selected by a user (Fig. 1, element 26; paragraph 0026, 0049, 0130).

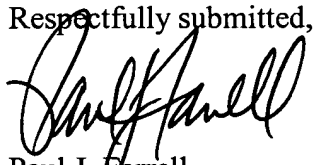
Evans discloses a mobile handset for use in a mobile communication system including a browser application to interpret a multimedia document received from a remote server. While Evans provides for a graphics library (Fig. 1, 26), it does not teach or suggest the use or creation of emoticons. Evans does disclose a speech agent interface in which dialog is recited by the speech agent presumably related to dialogue incorporated within video files. Images of the speech agent with a variety of vocal and facial styles conduct the dialogue related to the video files. However, these provide no connection to emoticons. Further, while Evan discloses transmitting a multimedia document, including a tag, Evans does not mention the incorporation of emoticons within SMS messages or even mention the use of any SMS messages. Also, emoticons of the present application have a visual appearance for indicating a specific emotion itself, whereas tags included in a multimedia document of Evans are just a series of characters for generating a specific graphic image. As Evans does not teach or suggest emoticons, it does not teach or suggest the storing of a plurality of emoticons.

Based on the above, Skelly in view of Evans does not teach or suggest displaying an emoticon and selecting an emoticon or emoticon group as recited in Claims 1, 10 and 16 (as amended), nor does this combination of references teach or suggest the use of a mobile terminal for storing emotions or incorporating emotions into SMS messages.

Accordingly, Claims 1, 10 and amended Claim 16 are in condition for allowance. Without conceding the patentability *per se* of the dependent claims, Claims 2-9, 11-15 and 17-21 are also in condition for allowance for at least the above reasons. It is respectfully requested that the Examiner reconsider and withdraw rejection of Claims 1-21.

Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/EJS/dr